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GENERAL AND COMPLETE DISARMAMENT
REVIEW OF THE IMPLEMENTATION OF THE
RECOMMENDATIONS AND DECISIONS
ADOPTED BY THE GENERAL ASSEMBLY
AT ITS TENTH SPECIAL SESSION

SECURITY COUNCIL
Forty-sixth year

Letter dated 21 May 1991 from the Permanent Representatives of Hungary and Romania to the United Nations addressed to the Secretary-General

We have the honour to transmit herewith the text of the Agreement between the Government of the Republic of Hungary and the Government of Romania on the Establishment of an Open Skies Regime, signed at Bucharest on 11 May 1991. Also attached are annexes A-H, all of which form an integral part of the Agreement.

We would appreciate if you would kindly have the present letter and its annex circulated as an official document of the General Assembly, under items 60 and 62 of the preliminary list, and of the Security Council.

(Signed) André ERDÖS
Ambassador
Permanent Representative of Hungary

(Signed) Aurel Dragos MUNTEANU
Ambassador
Permanent Representative of Romania

* A/46/50.

ANNEX

Agreement between the Government of Hungary and the Government of Romania on the Establishment of an Open Skies Regime

The Government of the Republic of Hungary and the Government of Romania, hereinafter referred to as the Parties;

Recalling their commitments in the Conference on Security and Cooperation in Europe to promoting greater openness and transparency of their military activities and to enhancing security by means of confidence and security building measures;

Seeking to implement in their bilateral relations in addition to the provisions of the 1990 Vienna Document of the Negotiations on Confidence- and Security-Building Measures, further cooperative confidence and security building measures;

Reaffirming their desire to further contribute to the successful conclusion of the negotiations of the Open Skies Conference, as expressed in the Charter of Paris for a New Europe;

Convinced that a successful bilateral Open Skies regime provides valuable experience for the elaboration of an Open Skies Treaty, and the simultaneous functioning of the two regimes will lead to enhanced confidence and security;

Noting that an Open Skies regime and its successful implementation would encourage reciprocal openness on the part of the States Parties, enhance the predictability of their military activities and strengthen confidence between them;

Convinced that the Open Skies regime will be implemented on a reciprocal and equitable basis which will protect the interest of each State Party;

Noting the possibility of employing the results of such overflights to improve openness and transparency, to enhance confidence and security building, and to improve the monitoring of, and thus promote compliance with, current or future arms control measures;

Noting that the operation of an Open Skies regime will be without prejudice to States not parties to this Agreement;

Believing that an effective Open Skies regime would serve to consolidate improved goodneighbourly relations between the States Parties;

Have agreed as follows:

Article I. Definitions

For the purposes of this Agreement and its Annexes:

(1) The term "Aircrew Member" means an individual from any of the two Parties who has been designated and accepted in accordance with Article XIX. of this Agreement, and who performs duties associated with the operation or maintenance of the Observation Aircraft or its sensors, and who participates as a member of the aircrew of the Observation Aircraft during the Observation Flight, or who is an Inspector Escort.

(2) The term "Observation Crew Member" means an individual from the Observing Party who has been designated and accepted in accordance with Article XIX. of this Agreement, and who performs duties associated with the operation of the sensors of the Observation Aircraft of the Observed Party and who participates as an Aircrew Member of the Observation Aircraft of the Observed Party during the Observation Flight.

(3) The term "Flight Monitor" means an individual designated by the Observed Party to be on board the Observation Aircraft during the Observation Flight and who performs duties in accordance with Annex D.

(4) The term "Flight Plan" means a flight plan of the Observing Party meeting the requirements of Article VI.

(5) The term "Hazardous Airspace" means areas of an Observed Party in which there are invisible or unusual dangers to the safety of the aircraft. Hazardous airspace include prohibited areas, restricted areas and danger areas, established in the interest of flight safety, public safety and environmental protection and published by the Observed Party in accordance with ICAO rules in the Aeronautical Information Publication (AIP).

(6) The term "Inspector" means an individual who is designated by the Observed Party or Observing Party to conduct inspections of the Observation Aircraft, its equipment, its sensors in accordance with Article IX. and Annex C.

(7) The term "Inspection Team" means the group of inspectors designated by the Observed Party or Observing Party to conduct the inspection of the Observation Aircraft, its equipment and its sensors in accordance with Article IX. and Annex C.

(8) The term "Inspector Escort" means a designated representative of the Observing Party or the Observed Party who has been authorized to monitor all activities of Inspectors and the Inspection Team during inspections and perform other specified duties in accordance with Article IX. and Annex C.

(9) The term "Inspection" means that activity described in and performed pursuant to Article IX. and Annex C.

(10) The term "Period of Inspection" means the period of time during which the Inspection Team inspects the Observation Aircraft, its equipment and its sensors in accordance with Article IX. and Annex C.

(11) The term "Observation Aircraft" means an unarmed, fixed wing aircraft, capable of carrying two Observed Party Flight Monitors in addition to its Aircrew Members. An aircraft is considered unarmed when it is not carrying any armament (munitions) of any type or equipment dedicated to armament operations.

(12) The term "Observation Flight" means a flight and any accompanying refuelling stops, conducted in accordance with the provisions and restrictions of this Agreement by an Observation Aircraft over the Territory of an Observed Party.

(13) The term "Observed Party" means a Party over whose Territory an Observation Flight is conducted.

(14) The term "Observing Party" means a Party conducting an Observation Flight.

(15) The term "Point of Entry" means the Airfield(s) in the Territory of each Party that are designated in Annex B. for the departure of the Observation Aircraft from the Observed Party's Territory.

(16) The term "Point of Exit" means the Airfield(s) in the Territory of each Party that are designated in Annex B. for the departure of the Observation Aircraft from the Observed Party's Territory.

(17) The term "Permitted Observation Equipment" means on-board observation equipment of the Observation Aircraft as described in Annex E.

(18) The term "Quota" means the number of Observation Flights that each Party undertakes to accept annually ("Passive Quota") and also the number of Observation Flights each Party shall have the right to conduct annually ("Active Quota"), as set forth in Annex A.

(19) The term "Arrival Fix" means the compulsory reporting point specified and promulgated by the Observed Party in Annex B. through which the Observation Aircraft shall enter the territorial airspace of the Observed Party.

(20) The term "Departure Fix" means the compulsory reporting point specified and promulgated by the Observed Party in Annex B. through which the Observation Aircraft shall depart the territorial airspace of the Observed Party.

(21) The "ATS" Route means a specified route designed for channelling the flow of traffic as necessary for the provisions of Air Traffic Services.

Article II. Basic Rights and Obligations of the Parties

(1) Each Party shall have the right to conduct Observation Flights in accordance with the provisions of this Agreement.

(2) Each Party undertakes to permit Observation Flights over its Territory in accordance with the provisions of this Agreement.

(3) Each Party may conduct Observation Flights with its own Observation Aircraft or the Observation Aircraft of the other Party.

(4) Areas with Hazardous Airspace are excepted in accordance with the provisions of Articles I., VIII. and Annex G.

Article III. Quotas of Observation Flights

(1) For the purposes of fulfilling objectives of this Agreement, each Party shall have the right to conduct and undertakes the obligation to accept an agreed number of Observation Flights in accordance with Annex A.

(2) The number of Observation Flights a Party shall be allowed to conduct shall be equal to the number of overflights it shall be required to accept.

Article IV. Observation Aircraft

While conducting flights under this Agreement the Observation Aircraft shall comply with the provisions of this Agreement.

Unless inconsistent with the provisions of this Agreement, the Observation Aircraft shall also comply with:

(a) the published standards and recommended practice of ICAO;

(b) published national air traffic control rules, procedures and guidelines on flight safety of the Observed Party; and

(c) the instructions of the ATC authorities and the ground control services.

Article V. Pre- and Post-Observation Flight Procedures

(1) Upon entry into force of this Agreement, each Party shall provide the other Party with the following information:

(a) emergency airfields between its Arrival Fixes and Points of Entry and between its Points of Exit and its Departure Fixes;

(b) instrument arrival and departure procedures:

- for its Points of Entry and Exit;

- for its alternate airfields near its Points of Entry and Exit;

- for suitable airfields along the route of flight which may be used in an emergency.

(2) Each Party shall promptly notify the other Party of any updates and amendments to such information.

(3) A Party may change the location of its Points of Entry and/or Exit upon three months prior notification to the other Party.

(4) In order to conduct an Observation Flight, the Observing Party shall notify the Observed Party of the estimated time of arrival of its Observation Aircraft at the Observed Party's Point of Entry. Such notice shall be given not less than 24 hours in advance of the estimated time of arrival.

(5) The notification to the Observed Party shall also indicate the type and model of the incoming aircraft, its registration number and call sign, as well as the names, passport types and numbers and functions of each Aircrew Member.

(6) In case the Observing Party intends to use the Observation Aircraft of the Observed Party, it shall submit its request to do so 7 days in advance of the proposed time of the commencement of the Observation Flight.

(7) Upon completion of the Observation Flight, the Observation Aircraft shall depart the Territory of the Observed Party from the Point of Exit. The departure flight from the Point of Exit shall commence not later than 24 hours following the completion of the Observation Flight, unless weather conditions or the airworthiness of the Observation Aircraft do not permit.

Article VI. Flight Plans and Conduct of Observation Flights

(1) Within six hours following the arrival of the Observation Aircraft or the Observation Crew at the Point of Entry, the Observing Party shall submit a Flight Plan for the Proposed Observation Flight to the Observed Party. The Observed Party shall as soon as possible review and approve or amend and approve the proposed Flight Plan in accordance with the provisions of this Agreement.

(2) The Observation Flight shall be conducted in accordance with the approved Flight Plan and in accordance with clearances and instructions from the Observed Party's air traffic controllers.

(3) The Flight Plan shall have the content according to Annex 2 to the Convention on International Civil Aviation, signed in Chicago, 1944, and be in the format specified by ICAO Document 4444-RAC/501, Rules of the Air and Air Traffic Services, as amended or revised.

(4) The Flight Plan shall provide and require that:

(a) the planned duration of the Observation Flight shall not exceed the duration of Observation Flights that is set forth in the Annex A;

(b) the Observation Flight commences not earlier than 16 hours and not later than 48 hours after delivery of the Flight Plan to the Observed Party;

(c) the Observation Aircraft shall fly a direct route between the coordinates or navigation fixes designated in the Flight Plan, and shall visit each coordinate or navigation fix in the declared sequence set forth in the Flight Plan; and

(d) the Observation Aircraft shall not hold over, delay departure from or otherwise loiter at any point of its approved Flight Plan route nor otherwise unreasonably disrupt the normal flow of air traffic except:

- as allowed for in the approved flight plan;
- as necessary for the purposes of arrival or departure at designated airfields when executing published procedures or the instructions of air traffic control;
- as instructed by air traffic control;
- as required for reasons of flight safety;
- flight tracks shall be permitted to intersect provided that no point of intersection is crossed more than once on any observation flight.

(5) The Observed Party shall ensure that Aircrew Members are given the Observed Party's most recent weather and safety information pertaining to the Flight Plan for each Observation Flight, including Notices to Airmen, IFR procedures and information about alternate and emergency airfields along the flight route stated in the approved Flight Plan.

(6) All Observation Flights shall be carried out in compliance with the provisions of this Agreement and ICAO standards and recommended practice, and with due regard for differences existing in national rules and regulations, published in AIP or in accordance with national flight and air traffic control requirements of which the Observation Aircraft's Aircrew shall be informed.

(7) In the event that the Observation Aircraft makes a deviation from the Flight Plan, as permitted under Article XIII. of this Agreement, the additional flight time arising from such deviation shall not count against the duration specified in Annex A.

Article VII. Sensors

(1) Each Party may use during Observation Flights any sensor that is necessary for reaching the objectives of this Agreement listed in Annex E. Sensors not listed in Annex E are prohibited and shall not be on board of the Observation Aircraft.

(2) The Parties undertake to use the same types of sensors of comparable capability and to this end to facilitate access to such sensors for use by the other Party.

(3) The Observation Aircraft shall be equipped with the same sensors, when used upon request by the other Party.

(4) Data acquired by sensors during Observation Flights will remain encapsulated on board the Observation Aircraft until the termination of the Observation Flight. Sensor data link operations of any kind are prohibited.

(5) As provided in Paragraph 4, of Article XVI. of this Agreement, a Party may utilize a type or model of sensor not listed in Annex E for or in connection with an Observation Flight upon:

(a) receiving the approval of the Hungarian-Romanian Open Skies Consultative Commission (HROSCC), and

(b) making a representative type or model of such sensor available for pre-flight examination by the other Party in accordance with the provisions of Annex E.

(6) Any Party operating an Observation Aircraft will ensure that the sensors function to specifications and also that their specifications conform with agreed requirements.

Article VIII. Hazardous Airspace

(1) Observation Aircraft may conduct Observation Flights anywhere over the Territory of the Observed Party in accordance with Article II. and Article VI.

(2) Hazardous Airspace must be publicly announced. Such public announcements must specify the dangers to the Observation Aircraft and Aircrew Members. Each Party shall ensure that such public announcements of Hazardous Airspace are promptly provided to the Other Party by the source designated by the Party in Annex H.

(3) Particular Hazardous Airspace announced in Annex H must be taken into account by the Observing Party when preparing an Observation Flight Plan.

(4) Each Party may introduce amendments and additions to Annex H, giving notice thereof to the other Party.

(5) In case of need, the Observed Party shall inform the Aircrew Members during preparations for the Observation Flight of the new particular Hazardous Airspace, indicating the causes for the restrictions introduced.

(6) In the event that the Flight Plan of the Observing Party requests overflight of Hazardous Airspace of the Observed Party, the Observed Party shall approve the Flight Plan if it conforms with Article VI., but may amend it to specify the minimum safe altitude over the Hazardous Airspace. This minimum safe altitude shall be made part of the Flight Plan. If there is no minimum safe altitude available consistent with air safety requirements, the Observed Party shall propose an alternative flight routing as near to the Hazardous Airspace as is permitted by air safety requirements. Alternatively the Observed Party may propose that the time of arrival of the Observation Aircraft over the Hazardous Airspace be amended to a time consistent with flight safety requirements. Such alternative flight routing or timing shall be incorporated in a revised Flight Plan and approved by the Observed Party.

(7) The Observing Party may elect either to conduct the Observation Flight on the basis of an amended Flight Plan, avoiding the particular Hazardous Airspace, or to cancel the Observation Flight. In that latter event, the Observation Aircraft or the Observation Crew shall depart the Territory of the Observed Party in accordance with Article V. and no overflight shall be recorded against the Quota of either Party.

(8) In the event the Observing Party informs the Observed Party that denial of access to any portion of the Hazardous Airspace of the Observed Party was not justified on the basis of air safety considerations and in a further event that the matter is not resolved through diplomatic channels, the Observing Party may raise the matter for consideration in the Hungarian-Romanian Open Skies Consultative Commission pursuant to Article XVI. of this Agreement.

Article IX. Aircraft and Sensor Inspections

(1) When an Observation Flight is conducted using an Observation Aircraft of the Observing Party, upon delivery of the Flight Plan, unless otherwise mutually agreed to by the Observed and the Observing Party, the Inspection Team of the Observed Party may inspect the Observation Aircraft, accompanied by Inspector Escorts of the Observing Party, to determine whether there is any Prohibited Equipment on the Observation Aircraft. Such inspection shall terminate no later than three hours prior to the scheduled commencement of the Observation Flight set forth in the Flight Plan. All such inspections shall be conducted in accordance with Annex C.

Article X. Flight Monitors on Observation Aircraft

The Observed Party shall have the right to have two Flight Monitors on board the Observation Aircraft during each Observation Flight in accordance with Annex D. Such Flight Monitors shall have the right of access to all areas of the Observation Aircraft during the Observation Flight. Flight Monitors have the rights and obligations specified in Annex D. In discharging their

functions, Flight Monitors shall not interfere with the activities of the Aircrew Members.

Article XI. Observation Aircraft Servicing and Maintenance

(1) The Observed Party shall, upon request, provide

(a) customary commercial aircraft fuelling, servicing, and maintenance for the Observation Aircraft at the Point of Entry or Exit and at any predesignated refuelling point specified in the Flight Plan; and

(b) meals and the use of rest facilities for Observation Aircraft Aircrew Members.

(2) On request of the Observing Party, further services will be agreed upon between the Parties in order to guarantee the effective realization of the Observation Flight. Should unscheduled technical demand arise for the Observation Aircraft, the necessary support will be provided without delay by the Observed Party. A protocol about the obtained services will be established between the Inspector Escort of the Observing Party and a responsible officer of the Observed Party at the Point of Entry or Exit.

(3) The Observing Party shall reimburse the Observed Party for the ordinary and reasonable costs of such fuelling, maintenance, servicing, meals and use of rest facilities. The amount of reimbursement will be agreed upon by the Parties on a case-by-case basis and will represent a fair estimate of the cost of such services at the time rendered, exclusive of taxes, fees, duties or other similar charges.

(4) The Observing Party shall reimburse the Observed Party for the use of the Observation Aircraft of the Observed Party. The Observed Party shall inform in advance the Observing Party of the estimated cost of one flight hour by the Observation Aircraft.

(5) Such charges shall not be greater than that which the Observed Party would charge itself for the same service.

Article XII. Prohibition, Correction or Curtailment of Observation Flights

(1) The Observed Party, by notifying the Observing Party, may prohibit prior to its commencement, or correct or curtail in a non-harmful manner subsequent to its commencement, any Observation Flight:

(a) that is not permitted by the terms of Annex A;

(b) for which a Flight Plan has not been filed in accordance with this Agreement;

(c) that arrives at the Point of Entry less than 24 hours after the notification required by Article V. of this Agreement;

(d) that fail to arrive at the Point of Entry within 6 hours of the estimated time of arrival set forth in said notification;

(e) that deviates from the Flight Plan, except as permitted by Article XIII. of this Agreement;

(f) that is conducted by an aircraft other than an Observation Aircraft; or

(g) that is otherwise in non-compliance with the terms, conditions, provisions and restrictions of this Agreement.

(2) The Observed Party may correct or curtail in its territorial airspace a flight to a Point of Entry or from a Point of Exit that deviates from the direct route required by Article VI.

(3) When an Observed Party prohibits, corrects or curtails an Observation Flight in accordance with this Article, it must provide in writing to the Observing Party through routine diplomatic channels an explanation for its action.

(4) An Observation Flight that has been prohibited shall not be recorded against the Quota of the Observed Party. A proposed Observation Flight that has been corrected or curtailed shall not be recorded against the Quota of the Observed Party.

(5) Disputes bearing on this Article may be submitted to the Hungarian-Romanian Open Skies Consultative Commission for resolution as stipulated in Article XVI. of this Agreement.

Article XIII. Deviations and Emergencies

(1) Notwithstanding any other provisions of this Agreement deviations by an Observation Aircraft from a Flight Plan or from the routes to and from the Points of Entry and Exit, that are necessitated by (a) adverse weather conditions, (b) air traffic control instructions related to flight safety, or (c) aircraft mechanical difficulty or other event beyond the control of the Observing Party, shall not be deemed a violation of this Agreement and shall not be grounds for correction, curtailment or prohibition by the Observed Party of an Observation Flight, a flight arriving at a Point of Entry or a flight departing from a Point of Exit.

(2) Any Observation Aircraft declaring an emergency shall be accorded the Observed Party's full range of distress and diversion facilities in order to ensure the most expeditious recovery to the nearest suitable airfield. A full investigation of the declaration shall be conducted in accordance with the regulations of the Observed Party, with the participation of the Observing Party, at a place of the Observed Party's choosing.

(3) In the case of an accident involving the Observation Aircraft in the Territory of the Observed Party, search and rescue operations will be conducted by the Observed Party in accordance with its own regulations and procedures for such operations. A full investigation of the accident by the Observed Party shall be conducted in accordance with the regulations of the Observed Party, with the participation of the Observing Party at a place of the Observed Party's choosing. At the conclusion of the investigation, all wreckage and debris of the Observation Aircraft, equipment, and sensors if found and recovered will be returned to the Observing Party if so requested.

Article XIV. Non-Interference

No Party shall use any device or equipment to interfere with the operation of the Observation Aircraft, with the functioning of the sensors, or with the safe conduct of any Observation Flight.

Article XV. Use of Information

(1) Information acquired through Observation Flights shall be used exclusively for the attainment of the purpose of this Treaty.

(2) Both the Observing and the Observed Parties shall receive complete set of the data obtained as a result of the processing of observation materials.

(3) Observation materials obtained as a result of an Observation Flight shall be processed in accordance with Annex H.

(4) Information obtained by a Party as a result of Observation Flights must not be used to the detriment of the other Party's security or other interests and must not be transferred to any third State.

Article XVI. Hungarian-Romanian Open Skies Consultative Commission

(1) To promote the objectives and implementation of the provisions of this Agreement, the Parties hereby establish the Hungarian-Romanian Open Skies Consultative Commission (hereinafter referred to as "the Commission").

(2) The Commission shall make decisions and undertake actions on the basis of agreement of the Parties.

(3) Each Party may raise before the Commission any issues concerning compliance with the obligations of this Agreement.

(4) The Parties shall meet within the framework of the Commission to:

(a) agree upon such technical and administrative measures, consistent with this Agreement, as may be necessary to ensure the viability and effectiveness of this Agreement;

(b) consider questions relating to compliance with the obligations assumed under this Agreement;

(c) agree on updates to the Annexes that so provide; and

(d) consider and act upon all matters referred to it by a Party pursuant to this Agreement.

(5) General provisions for the operation of the Commission are set forth in Annex F.

Article XVII. Notifications

Except as otherwise stipulated, the Parties shall provide the notifications required by this Treaty through diplomatic channels.

Article XVIII. Liability

A Party shall, in accordance with international law and practice, be liable to pay compensation for damage to the other Party, or to its natural or juridical persons or their property, caused by it in the course of the implementation of this Agreement.

Article XIX. Aircrew Members and Inspection Crew Members

(1) Aircrew Members and Inspection Crew Members shall be designated by each Party in the following manner:

(a) Within 30 days after signature of this Agreement each Party shall provide to the other Party for its review a list of proposed Aircrew Members and Inspection Crew Members who will conduct Observation Flights for that Party. This list shall not exceed 30 persons and shall contain the name, birth date, rank, function and passport type for each person on the list. Each Party shall have the right to amend its list of Aircrew Members and Inspection Crew Members. Each Party shall have to provide to the other Party its amended list of Aircrew Members and Inspection Crew Members.

(b) If any person on the original or amended list is unacceptable to the other Party, it shall, within 14 days, notify the Party providing the list that such persons will not be accepted as Aircrew Members and Inspection Crew Members. Persons not declared unacceptable within 14 days are deemed accepted as Aircrew Members and Inspection Crew Members. In the event that a Party subsequently determines that an Aircrew Member or an Inspection Crew Member is unacceptable, the Party shall so notify the Party that designated the Aircrew Member or Inspection Crew Member, which shall, not later than two working days thereafter, strike such person from its Aircrew Member and Inspection Crew Member list.

(2) In order to exercise their functions effectively, for the purpose of implementing the Agreement, Aircrew Members and Inspection Crew Members shall be accorded the inviolability and immunities as specified in Articles 29, 30, paragraph 2 with respect to papers and correspondence and 31 of the Convention on Diplomatic Relations done in Vienna on 18 April 1961. Such inviolability

and immunities shall be accorded for the entire period from the arrival of the Aircrew Members or Inspection Crew Members to the Territory of the Observed Party until their departure from it, and thereafter with respect to acts previously performed in the exercise of their official functions as Aircrew Members or Inspection Crew Members. The immunity from jurisdiction may be waived by the Observing Party in those cases when it is of the opinion that immunity would impede the course of justice and that it can be waived without prejudice to the Agreement. Such waiver must always be express. Without prejudice to their inviolability and immunities or to the rights of the Observing Party under this Agreement, it is the duty of Aircrew Members and Inspection Crew Members to respect the laws and regulations of the Observed Party.

(3) Aircrew Members and Inspection Crew Members of a Party shall be permitted to bring into the Territory of the Observed Party, without payment of any customs duties or related charges, articles for their personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations.

(4) In the event that either the Observing Party or the Observed Party considers that there has been a violation or an abuse of the inviolability or immunities accorded under this Article, that party may forward a report specifying the nature of the issue to the Commission for consideration.

Article XX. Ratification, Entry into Force

(1) The present Agreement is subject to ratification in accordance with constitutional procedures of each Party.

(2) This Agreement shall enter into force upon the exchange of the instruments of ratification.

Article XXI. Amendments; Implementing Measures; Periodic Review

(1) Each Party may propose amendments to this Agreement. Agreed amendments shall enter into force in accordance with the procedures set forth in Article XX. governing the entry into force of this Agreement.

(2) Any decision taken by the Commission pursuant to subparagraphs (a) or (c) of Paragraph 4 of Article XVI. shall be deemed not to be amendments to this Agreement.

(3) Within 60 days of the signature of a multilateral Open Skies Treaty a session of the Commission is to be convened to consider matters related to the further implementation of this Agreement.

Article XXII. Duration; Denunciation

(1) This Agreement shall be of unlimited duration.

(2) Each Party may denunciate this Agreement if it decides that extraordinary events related to the subject matter of this Agreement have jeopardized its supreme interests. A Party intending to denunciate the Agreement shall give notice of its decision to the other Party at least six months in advance of its denunciation.

(3) In the event that a Party gives notice of its decision to denunciate this Agreement in accordance with paragraph 2 of this Article, a meeting of the Commission shall be convened by the Parties within 30 days after such a notification has been received in order to consider practical matters related to the denunciation of the Agreement.

Article XXIII. Registration

(1) This Agreement shall be registered pursuant to Article 102 of the Charter of the United Nations.

Article XXIV.

This Agreement contains XXIV. Articles and Annexes A-H, all of which form an integral part of this Agreement.

Done at ....., this .....day of ....., 19..., in two copies, each in Hungarian and Romanian languages, all two texts being equally authentic.

Annex A

	Hungary	Romania
Number of Observation Flights per Year	4	4
Maximum Length of Observation Flights	3 hours	3 hours
Maximum Distance of Observation Flight	1200 km	1200 km

This Annex may be updated by the Commission. This update shall not be considered an amendment of the Agreement.

Annex B

	Hungary	Romania
Points of Entry and Exit:	Budapest - Ferihegy Szolnok	Bucharest - Otopeni Timisoara
Arrival and Departure Fixes:	All Arrival and Departure Fixes along the Hungarian-Romanian border published in the AIP.	
Air Routes to and from Points Of Entry and Exit:	The international airways.	
Language to be used during briefings:	Hungarian	Romanian

This Annex may be updated by the Commission. This update shall not be considered an amendment of the Agreement.

Annex C - Inspections

The following procedures shall govern the inspection of the Observation Aircraft by the Inspection Team conducted to determine whether there is any prohibited equipment on the Observation Aircraft pursuant to Article IX. of the Agreement.

(1) Upon arrival of the Observation Aircraft at the Point of Entry, the Inspection Team shall, if requested by the Inspector Escorts, provide the Inspector Escorts a briefing on how the Inspection Team intends to inspect the Observation Aircraft, including, but not limited to, any safety precautions pertaining to Inspection Team activities, and shall undertake the following measures:

(a) deliver to the Inspector Escorts a list of the members of the Inspection Team, which shall not exceed 10 members, unless otherwise agreed to by the Observing Party and the Observed Party, and a statement of the general function during the inspection of each member of the Inspection Team; and

(b) deliver to the Inspector Escorts a list of each item of inspection equipment to be used by the Inspection Team in conducting the inspection, which shall be limited to the following items:

(i) flashlights;

(ii) still and video cameras;

(iii) notepads, inspection records, rulers, pens, and pencils;

(iv) hand-held audio recorders, the use of which shall be limited to recording inspection activities;

(v) passive infrared sensors;

(vi) ultrasonic equipment;

(vii) lens measuring devices;

(viii) borescopes;

(ix) other specialized measurement equipment approved by the Inspector Escorts and appropriate for inspection of the type of Observation Aircraft, equipment and sensors being inspected; and

(x) other equipment as approved in writing by the Inspector Escorts for that inspection; and

(c) with the participation of the Inspector Escorts, conduct an inventory of each item of inspection equipment set forth on the list delivered by the Inspection Team pursuant to subparagraph 1(b) of this Annex, and review with the Inspector Escorts the accounting procedures the Inspector Escorts shall follow pursuant to Paragraph 9 of this Annex to confirm that each item of inspection equipment brought aboard the Observation Aircraft by the Inspection Team has been removed from the Observation Aircraft upon conclusion of the inspection.

(2) Upon delivery of the Flight Plan, unless otherwise mutually agreed to by the Observed Party and Observing Party, the Inspection Team of the Observed Party may inspect the Observation Aircraft, accompanied by Inspector Escorts of the Observing Party, to determine whether there is any Prohibited Equipment on the Observation Aircraft. All such inspections shall be conducted in accordance with Article IX. and the Annex C.

(3) The Inspection Team shall be accompanied throughout the entire inspection of the Observation Aircraft by the Inspector Escorts to confirm that the inspection is being conducted in accordance with the provisions of this Annex. The Inspection Team shall facilitate the execution of this duty by the Inspector Escorts. The Inspector Escorts shall facilitate the inspection of the Observation Aircraft, its equipment, and its sensors by the Inspection Team.

(4) In conducting its inspection, the Inspection Team shall have full access to the entire exterior and interior of the Observation Aircraft and its equipment. Such access shall be provided to, but not limited to, the following:

(a) cockpit;

(b) cabin area;

(c) tail section;

(d) nose;

(e) wings;

(f) engines;

(g) fuselage; and

(h) cargo and storage areas.

(5) In conducting its inspection, the Inspection Team shall have full access to sensors. All access to sensors and electronic equipment associated with such sensors connected to or protruding from the exterior or located within the interior of the Observation Aircraft shall be obtained through access panels, where such access panels are designed to be opened, removed, and re-emplaced.

(6) Notwithstanding the provisions of paragraphs 4 and 5 of this Annex, the inspection shall be conducted in a manner that does not:

(a) degrade or damage, or prevent subsequent operation of the Observation Aircraft, its equipment, or its sensors;

(b) alter the electrical or mechanical structure of the Observation Aircraft, its sensors, or its equipment; or

(c) impair the airworthiness of the Observation Aircraft.

The Inspection Team may not open compartments on board the Observation Aircraft, remove aircraft, sensor, or equipment panels, or remove physical barriers to access to the Observation Aircraft, its equipment, or its sensors;

provided, however, that the Inspector Escorts shall, upon request, do all such opening or removal, to the extent that the compartments, panels and barriers in question are designed to be opened, removed, and re-emplaced. The Inspector Escorts shall equip themselves with necessary tools to fulfil all such requests promptly. The Inspector Escorts shall be provided sufficient time during the inspection to re-emplace and secure all components, panels and barriers that are opened or removed, so that at the end of the inspection all such components, panels, and barriers are re-emplaced and secured.

(7) Equipment not on the inspection equipment list delivered by the Inspection Team pursuant to subparagraph 1(b) of this Annex may not be brought on board the Observation Aircraft by the Inspection Team, nor may the Inspection Team bring weapons of any kind on board the Observation Aircraft.

(8) The Inspection Team may make notes, photographs, video and voice recordings, sketches and similar records of the Observation Aircraft and sensors during the inspection, none of which shall be subject to any review or examination by the Observing Party.

(9) Upon completion of the inspection, which shall terminate no later than three hours prior to the scheduled commencement of the Observation Flight, and shall have a duration of not more than 8 daylight hours, unless otherwise agreed by the Parties, the Inspection Team shall:

(a) withdraw from the Observation Aircraft and its immediate area to a location not closer than 25 meters from any part of the Observation Aircraft; and

(b) demonstrate to the Inspector Escorts that all inspection equipment on the list delivered pursuant to subparagraph 1(b) of this Annex has been removed from the Observation Aircraft.

The Inspector Escorts may use their own accounting procedures to confirm compliance with subparagraph (b) of this paragraph. If the Inspector Escorts are unable to confirm compliance with subparagraph (b) of this Paragraph, the Observed Party may prohibit the Observation Flight, and no Observation Flight shall be recorded against the Quota of either Party.

(10) The Inspection Team shall immediately inform the Inspector Escorts of any equipment suspected to be Prohibited Equipment located by the Inspection Team on board the Observation Aircraft. If the Observing Party is unable to demonstrate that the items in question are not Prohibited Equipment, the Observed Party may prohibit the Observation Flight pursuant to subparagraph 1(g) of Article XII of the Agreement, and the Observation Aircraft shall thereupon depart the Territory of the Observed Party.

(11) Information and briefings furnished by a Party pursuant to this Annex shall be provided in the language that is designated for that Party in the Annex B, unless the Party receiving the information or briefing otherwise agrees.

(12) The Observed Party shall, upon request, provide a suitable briefing room for briefings provided for by this Annex and for use by Inspector Escorts in preparing information in connection with inspections. The Observed Party shall also provide the assistance of clerical personnel to Inspector Escorts in connection with the performance of their responsibilities under this Annex.

(13) The Observed Party shall not disclose to non-Parties information about the Observation Aircraft, its equipment, or its sensors obtained pursuant to Article IX. or this Annex without the express permission of the Observing Party.

(14) Upon entry into force of this Agreement, each Party shall notify to the other Party of each type and model of Observation Aircraft and sensor it intends to use for Observation Flights. Each time a Party intends to use for Observation Flights a new model of Aircraft or a new model of Sensor of agreed types, it shall notify to the other Party the model of the Aircraft or Sensor. Functional description and generic diagrams of the Aircraft, its equipment and sensors, to include all sensor components, shall be provided upon request.

(15) Within a period of 30 days after notification of each type and model of Observation Aircraft and sensor pursuant to Paragraph 14, each Party shall notify to the other Party of a 7 day period during which a representative type and model of each such Observation Aircraft and/or sensor shall be available for examination. The Party whose Observation Aircraft and/or sensors are being examined shall provide adequate facilities in which to conduct the examination.

(16) Examinations shall not exceed 48 hours in length without the consent of the Party whose Observation Aircraft and/or sensors are being examined.

(17) The representatives of the Party conducting the examination shall be:

(a) identified to the Party whose Observation Aircraft and sensors are being examined in advance of the examination;

(b) nationals of the Party;

(c) accorded the inviolability and immunities enjoyed by diplomatic agents pursuant to Articles 29 and 31 of the Vienna Convention on Diplomatic Relations for the entire period of their presence in the Territory of the Party whose Observation Aircraft and sensors are being examined, and thereafter with respect to acts previously performed in the exercise of their official functions;

(d) accorded the same treatment as is accorded to Aircrew Members and Inspection Crew Members under paragraph 2, of Article XIX. of the Agreement regarding waiver of immunity, and under paragraphs 3 and 4 of Article XIX. of the Agreement;

(e) governed by the provisions of paragraphs 1, 3-8, and 12 of this Annex to the extent that those paragraphs are applicable to Inspections Team members;

(f) accompanied during the examination by representatives of the Party whose Observation Aircraft and sensors are being examined; and

(g) required to identify specific inspection equipment, and, if requested by the Party whose Observation Aircraft and sensors are being examined, shall demonstrate that such equipment will not degrade, damage, alter, or impair the normal operation of the Observation Aircraft and its sensors.

(18) The Party whose Observation Aircraft and sensors are being examined shall, prior to commencement of such examination, undertake the following measures:

(a) brief the Party conducting the examination on all necessary safety precautions for the examination of the Observation Aircraft;

(b) brief the Party conducting the examination on the procedures the Party whose Observation Aircraft and sensors are being examined intends to use to allow a thorough examination;

(c) brief the Party conducting the examination on the configuration of the Observation Aircraft and on the location of sensors and associated equipment on the Observation Aircraft; and

(d) use best efforts to answer questions of the Party conducting the examination pertaining to the examination.

(19) Pursuant to paragraph 17 (e) of this Annex, the Party conducting the examination may not open compartments on board the Observation Aircraft, remove aircraft, sensor, or equipment panels, or remove physical barriers to access to the Observation Aircraft, its equipment, or its sensors; provided, however, that the Party whose Observation Aircraft and sensors are being examined shall, upon request, do all such opening or removal, to the extent that the compartments, panels, and barriers in question are designed to be opened, removed, and re-emplaced.

Annex D - Flight Monitors

1. Obligation of the Parties

Each Party shall facilitate the mission of the Flight Monitors.

2. Purposes of the Flight Monitors

The purposes of having Flight Monitors aboard the Observation Aircraft during the Observation Flight are:

a. To represent the Observed Party;

b. To monitor compliance by the Observing Party with the provisions of the Agreement;

c. To ensure compliance with the Flight Plan;

d. To monitor the operation of the sensors and other equipment of the Observation Aircraft;

e. To advise on national rules of the Observed Party (e.g., rules on flight safety) as requested by the Observing Party;

f. In the event of an emergency, to facilitate communications as directed by the pilot in command of the Observation Aircraft.

3. General Rules for the Conduct of Flight Monitors

a. Two Flight Monitors shall have the right to board the Observation Aircraft at the Point of Entry and to remain aboard during the Observation Flight, including any stops for refuelling or emergencies.

b. The Flight Monitors shall have the right to bring aboard the Observation Aircraft maps, flight charts, publications, equipment operating manuals, and other equipment, such as tape voice recorders.

c. Except for flight safety reasons, the Flight Monitors shall have the right to move unencumbered about the Observation Aircraft, including the flight deck. In exercising their rights, the Flight Monitors shall not interfere with the activities of the Aircrew Members.

d. The Flight Monitors shall have the right to view the operation of the sensors by the Observing Party as well as all activities on the flight deck during the Observation Flight. This includes the right to listen to the communication of the Observation Aircraft (internal and external) and to monitor the flight and navigation instrument of the Observation Aircraft.

e. The Flight Monitors are the representatives of the Observed Party during the conduct of the Observation Flight. Flight Monitors may offer advice, communicate with air traffic controllers as appropriate, and may help relay and interpret communications, from the air traffic controllers to the Aircrew Members, about the conduct of the Observation Flight. For this purpose, the Flight Monitors shall be given access to the radio equipment of the Observation Aircraft.

f. Flight Monitors are responsible for knowing the position of the Observation Aircraft and the location of Hazardous Airspace along and near the route of the Observation Flight. If a Flight Monitor or air traffic control personnel of the Observed Party believes that the Observation Aircraft is deviating from its Flight Plan, the Aircrew Members shall be advised.

g. Should the Flight Monitors determine that they are not being permitted to exercise their rights under the Agreement, the Observed Party shall forward a report specifying the nature of the issue to the Joint Open Skies Consultative Commission for consideration.

Annex E - Sensors

(1) The sensor package for Open Skies purposes may comprise any of the following types of sensors in any number and combination:

(a) Camera, Optical

(b) Video Camera

(2) Hungarian-Romanian Open Skies Consultative Commission shall annually consider updates to this Annex.

(3) Signals intelligence collection from the Observation Aircraft is prohibited. Any device that can collect, process, retransmit, and/or record electronic signals related to communications, instrumentation, telemetry, and electronic non-communication signals is prohibited, except: (a) that equipment required for navigation and flight operations, and (b) those devices that are components of other sensors (e.g. recording equipment for onboard non-prohibited sensors). Such excepted equipment and devices shall not be used to perform any prohibited function.

(4) Data link (encrypted/unencrypted) equipment, such as that which could be used to transmit sensor data from the Observation Aircraft to a ground station, to other aircraft or to satellites, is prohibited.

Annex F - Commission

(1) The Commission shall undertake such action as is provided for in Article XVI. of the Agreement.

(2) Each Party shall appoint a Representative, assisted by such staff as that Party deems necessary, to the Commission.

(3) The Commission shall hold one regular session per calendar year unless it decides otherwise. Special sessions may be convened upon the request by a Party. Such a Party shall inform the other Party in advance of the matters to be submitted for consideration.

(4) The initial session of the Commission shall be held within sixty days of the entry into force of this Agreement. Thereafter, sessions of the Commission shall be held at the capitals of the Parties, and shall alternate between the two capitals every year. The Party at whose capital a session is held shall provide administrative support for that session. Sessions may also be held at such other places as the Parties may agree.

(5) At its initial session, the Commission shall establish its Rules of Procedure.

(6) The proceeding of the Commission shall be confidential. The Commission may agree to make its decisions public.

(7) Each Party shall bear the expenses incurred from its participation in the Commission. Expenses incurred by the Commission as a whole shall be shared equally by the Parties.

Annex G - Hazardous Airspace

The Hazardous Airspaces of the Parties are those that are published in the AIP.

Annex H - Processing of Materials of the Observation Flights

1. Obligations of the Parties

(a) Each Party will in every possible way facilitate the timely and high-quality processing of the observation materials and their provision to the Observing Party.

(b) The Party carrying out the processing shall be responsible for the quality of the processing of the Observation Flight materials.

2. (a) The initial processing (development) of Observation Flight materials shall be carried out in established ground facilities to be notified by the Parties upon entry into force of the Agreement, by mixed groups of specialists of the Observed and the Observing Parties and with the aid of agreed equipment.

(b) Whenever it is possible to install dual sensors on board of the observation aircraft, the Observing Party shall take home one set of observation materials while the other original set of observation material shall be retained by the Observed Party. If it is not possible to install dual sensors on board of the observation aircraft, the observation material shall remain with the Observed Party while the copy shall be taken home by the Observing Party.